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ERIE COUNTY COMPTROLLER'S OFFICE  
DIVISION OF AUDIT & CONTROL  
95 FRANKLIN STREET  
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**TO:** The Erie County Legislature

**CC:** Michelle Mazzone, Director of Real Estate  
Jack Quinn, President of Erie Community College  
Jeremy Colby, Erie County Attorney  
Erie County Fiscal Stability Authority

**FROM:** The Erie County Comptroller, Division of Audit and Control

**DATE:** May 11, 2011

**RE:** A Review of “Qualifications for New Health Sciences Building, Architectural/Engineering Services for Erie Community College, the County of Erie.”

In early March of 2011, the Office of Comptroller was contacted through the Erie County Waste, Fraud and Abuse Tip Line (“Tip Line”) regarding the contract awarded for the construction of the proposed Health Sciences Building at Erie Community College’s (“ECC”) North Campus. The anonymous tipster alleged that Kideney Architects, P.C.’s (“Kideney”) selection as architects for the project was improper.<sup>1</sup> Following established protocols for a Tip Line allegation, the Deputy Comptroller – Audit consulted with the Erie County Comptroller. It was determined that the Division of Audit and Control (“Audit”) would examine the selection of Kideney as architect for the project.

**ISSUE:**

- Was the selection process for the proposed ECC North project performed properly?

**Exhibits:**

- A – “Request for Qualifications (RFQ) Architectural and Engineering Services.”
- B – Letter from Michelle Mazzone, Director of Real Estate and Asset Management, to Michael Szukala, Deputy Comptroller - Audit, dated April 20, 2011.

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<sup>1</sup> After our examination began, another anonymous tip was received by the Comptroller’s Office with similar allegations.

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- C – Letter from Michael Szukala, Deputy Comptroller - Audit, to Michelle Mazzone, Director of Real Estate and Asset Management, dated April 14, 2011 on “Proposed New Building on the Erie Community College North Campus.”
- D – Copies of blank RFQ Evaluation Sheets and Evaluation Guidelines for the “Contract Administration for DPW” for the period January 1, 2003 through April 30, 2004.

### **BACKGROUND:**

In August of 2010, Erie County advertised for a “Request for Qualifications (RFQ) Architectural and Engineering Services,” which required response from interested parties by September 3, 2010. The actual advertisement is attached as Exhibit A.

Thirty-seven (37) firms submitted Qualification Statements in response to the RFQ by the September 3, 2010 deadline. On September 15, 2010, three Erie County employees; Kevin Madoo, PE; Greg Williamson and Jeff Zack, PE, selected seven finalists from the 37 responses. The seven finalists included:

- BHNT Architects
- Cannon Design
- EI Team, Inc.
- Hamilton, Houston and Lownie Architects (“HHL”)
- Kideney Architects
- Trautman Associates
- Wendel Duchscherer

The seven finalists were asked to make a formal presentation to the project committee. The project committee is composed of:

#### **Voting Members**

Pat Krzesinski (ECC Board of Trustees)  
Steve Boyd (ECC Board of Trustees)  
Anthony Nesci (ECC Buildings and Grounds)  
Kevin Madoo (Erie County Capital Group)  
Gregory Williamson (Erie County Capital Group)

#### **Non-Voting**

Jack Quinn (ECC President)  
Michelle Mazzone (Erie County Director of Real Estate)  
Nancy Gaglione (ECC Foundation Board)

Formal presentations by the seven finalists took place on December 10, 13 and 14, 2010. Architectural and engineering fee proposals were submitted to the Erie County Capital Group on January 14, 2011, and these fee proposals were reviewed on February 22, 2011. The project

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committee met on March 8, 2011, and narrowed the selection to two firms. A vote was taken and the Kideney proposal was selected as the winner.

The total cost of the project is estimated to be \$30 million and is to be funded by three groups: The ECC Foundation would raise \$7.5 million, Erie County would contribute \$7.5 million and the remaining \$15 million would come from New York State. However, New York State's 2011 Capital Budget included no new projects so, as of May 1, 2011, there is no New York State allocation of the funding for this project.

Both New York State and Erie County officials have stated that although there is insufficient funding for this project at this time, funding may be provided at a later date.

### **ANALYSIS:**

Audit requested access to the fee proposals presented by the seven finalists from Erie County Director of Real Estate, Michelle Mazzone. Two civil service auditors examined the proposals on Friday, April 29, 2011. Although requested, Mazzone was unable to provide auditors with notes from any of the meetings discussed above, and schedules or other documents supporting the selection of the winning proposal. As described in Exhibit B, it appears that no minutes of any committee meetings were taken, and no score sheets or other material were presented to or prepared by the committee during the review and contract-awarding process.

In order to perform an analysis, Audit created its own schedule comparing the costs and services offered by the seven finalists.

The Audit generated schedule is not included here because the data from the various proposals is considered "trade secrets" and is confidential in nature. However, the ranking of the various proposals in order from lowest to highest cost can be provided and is noted below:

- 1) BHNT Architects
- 2) Cannon Design
- 3) Trautman Associates
- 4) EI Team, Inc.
- 5) HHL Architects
- 6) Kideney Architects
- 7) Wendel Duchscherer

The difference between the lowest fee proposed and the Kideney proposal was more than \$500,000 but less than \$1 million greater than the lowest responding bid. This places the Kideney proposal as the sixth highest of the seven proposals reviewed.

The bids are not easily compared. Some bids include costs for such services as Leadership in Energy and Environmental Design (LEED) consulting, schematic design services and landscaping consultation.

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Although Audit repeatedly asked, we were provided no documentation to support the decision to select the second-highest bidder over any of the five lower bids. As noted above, Audit was informed by the Director of Real Estate that such documentation does not exist.

Due to the complexity and variety of the proposals submitted and reviewed, the lack of any written analysis prepared by the project committee is surprising. Our office expected appropriate analysis to support their choice of respondents. For example, Audit, under former Comptroller Nancy Naples, performed a review of "Contract Administration for DPW" for the period January 1, 2003 through April 30, 2004. Within that period, Erie County's Department of Public Works ("DPW") issued an RFQ for bridge projects. The analysis of the responses to the RFQ contained "score sheets" for each individual reviewing a particular vendor's RFQ. The "score sheets" documented specific criteria and assigned weights to each criteria. Each individual independently rated each vendor's RFQ on the specific criteria. The forms created by each individual were summarized and retained for later review. Finally, to insure that each employee's rating was anonymous and independent, all employees involved in the rating process were identified by a random number.

As noted by Comptroller Naples' previous review, DPW had established protocols and procedures in place to review an RFQ. Although established procedures existed, the current RFQ and subsequent review process did not have:

- ✓ Specific documented criteria for the selection of a vendor;
- ✓ Score sheets to record an individual's rating of a criteria;
- ✓ Any documented weighting of that criteria;
- ✓ Summaries of score sheets showing a comparison between proposals; or,
- ✓ A mechanism to insure the individuals performing the rankings of the RFQ were independent of one another.

### **CONCLUSION:**

Audit has been provided no documentation or analysis to support the selection of Kideney over the other five lower cost proposals.

*Because there is no documentation on the selection process, we are unable to determine if the selection of Kideney was proper.*